



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 13, 2018

CASE NUMBER: 2018OPA-0336

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Shall Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Unfounded)
# 3	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employee may have disclosed non-public information to her half-sister and that her half-sister then used that information in a harassing manner by posting it on social media.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 2. Employees Shall Adhere to Laws, City Policy and Department Policy

The Complainant told OPA that her son was alleged to have engaged in criminal activity. The Complainant stated that Named Employee #1 (NE#1), who was then a Detective assigned to the Sexual Assault Unit (SAU), called her in late March 2017 to ask about her son. She indicated to OPA that NE#1 said that her son was a fugitive and asked when she had last seen him. She told NE#1 that she had not seen her son since December. NE#1 asked the Complainant to tell him if she spoke to her son and to send her son an email. NE#1 called her again several days later and again asked whether she had spoken to her son. She told him that she believed suspects were innocent until proven guilty.

She told OPA that, on the same date as her second conversation with NE#1, her half-sister, who she had not spoken with in around eight years, posted information about her son on social media. The Complainant described the postings as inflammatory and as containing information that was not publicly available.

The Complainant stated that she relayed her concern about these postings to NE#1. NE#1 asked her whether her son had sexually abused the Complainant’s disabled daughter. Based on this question, the Complainant believed that NE#1 had spoken to her half-sister. When she asked him about this, he replied that he was required to talk to everyone. The Complainant believed that the only person who knew of the information that her half-sister later posted was NE#1. She further believed it possible that he provided that information to her.



The Complainant stated that she called NE#1 and asked him whether he disclosed this non-public information to her half-sister. NE#1 denied doing so and told the Complainant that it would be illegal for him to have provided that information. The Complainant did not believe NE#1 and, accordingly, initiated this complaint.

As part of its investigation, OPA interviewed NE#1. NE#1 told OPA that another Detective was also assigned to the case and that he had “very little to do” with the investigation. NE#1 recalled assisting the other Detective with executing a search warrant on the suspect’s home. He also recalled speaking with the Complainant two or three times. He remembered that the Complainant refused to believe that her son had committed any crimes, even after NE#1 told her that his computer had been forensically searched and evidence of criminality had been located. He did not remember the exact substance of their conversations, but stated that he could have asked her where her son was and may have told her to ask her son to turn himself in. NE#1 did not recall whether he spoke with the Complainant’s half-sister. He denied that he would have disclosed protected information to the half-sister and stated that he would have had no reason to do so. NE#1 told OPA that he recalled learning that the half-sister really wanted the subject to be located. NE#1 indicated that multiple detectives and law enforcement personnel from SPD and other agencies were also looking for the son and could also have had and disclosed the information that the Complainant contended was non-public.

The Complainant did not provide contact information for her half-sister. She told OPA that her half-sister moves around and does not have a permanent address. As such, OPA was unable to locate and interview the half-sister as part of this investigation.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

When evaluating allegations, OPA is required to apply a preponderance of the evidence standard. This means that there must be evidence in the record proving that it is more likely than not that the claimed misconduct occurred. Here, when looking at the totality of the record, the evidence is simply insufficient to meet this burden.

While the Complainant alleged that NE#1 knew of protected information that he disclosed to her half-sister, this is predominantly conjecture. She has no evidence of any conversation or collusion between NE#1 and the half-sister. Moreover, there is no indication that the half-sister ever disclosed to the Complainant that she learned the non-public information from NE#1. Indeed, as NE#1 indicated, there were multiple individuals from a number of law enforcement agencies that likely knew this same information and who could have disclosed it to the half-sister. NE#1 denied that he disclosed this information and, as he pointed out, I do not see any motive for him to have done so. As the evidentiary burden has not been met to prove that NE#1 violated the law, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 6. Employees May Use Discretion

As indicated in SPD Policy 5.001-POL-5, “[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment.” This policy further



states that “[t]he scope of discretion is proportional to the severity of the crime or public safety issue being addressed.” (SPD Policy 5.001-POL-5.)

Had NE#1 disclosed non-public information to the Complainant’s half-sister, it would have constituted an abuse of his discretion in addition to being illegal. However, as discussed above, that NE#1 engaged in this conduct has not been proved by a preponderance of the evidence. As such, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

As with the above allegations, if NE#1 had disclosed non-public information, that conduct would have violated the Department’s professionalism policy. However, based on OPA’s review of the record, this conduct has not been proved by a preponderance of the evidence. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**